

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

COMPLAINT

ALLEN KNUCKLES (“Plaintiff”), by and through his attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against AMCOL SYSTEMS (“Defendant”):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive and unfair practices.

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising under the laws of the United States.

3. Defendant conducts business in the State of Delaware, and therefore, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

PARTIES

5. Plaintiff is a natural person residing in Wilmington, Delaware 19805.

6. Plaintiff is a “consumer” as that term is defined by 15 U.S.C. § 1692a(3).

7. Defendant is a debt collection company with its principal office located at 111
wood Road, Columbia, South Carolina 29210.

8. Defendant collects, and attempts to collect, consumer debts incurred, or alleged to have been incurred, for personal, family or household purposes on behalf of creditors and debt buyers using the U.S. Mail, telephone and/or internet.

9. Defendant is a “debt collector” as that term is defined by 15 U.S.C. §1692a(6), and repeatedly contacted Plaintiff in an attempt to collect a debt.

10. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

11. At all relevant times, Defendant was attempting to collect a consumer debt from Plaintiff.

12. The alleged debt Defendant was seeking to collect, a Jefferson University Hospital medical bill, arose out of transactions, which were primarily for personal, family, or household purposes.

13. Beginning on or about June 21, 2013, and continuing through September 2013, Defendant placed continuous and repetitive collection calls to Plaintiff's cellular telephone.

14. During the relevant period, Defendant called Plaintiff, on average, at least once a day and at times, calling him as frequently as two (2) times a day.

15. Upon information and belief, Defendant called Plaintiff on a continuous and repetitive basis with the intent of harassing Plaintiff into paying the alleged debt.

16. Further, on at least one occasion, Plaintiff spoke with Defendant's collector and requested debt validation.

17. Defendant's collector told Plaintiff he had already received bills from the hospital as well as his insurance, implying that was its validation.

18. Further, Defendant's collector claimed Defendant had sent him collection letters, so it was not going to send him anything else.

19. After having been told that Defendant was not going to send him validation of the debt, Plaintiff instructed Defendant's collector to stop calling him and only communicate with him in writing.

20. Defendant's collector told Plaintiff that he was the one that called them, when Defendant's collector was aware that Defendant had called him that day and he was responding to its collection call.

21. Most recently, Defendant contacted Plaintiff on or about September 19, 2013.

22. Defendant's actions in attempting to collect the debt were harassing, deceptive, and unfair.

**DEFENDANT VIOLATED THE
FAIR DEBT COLLECTION PRACTICES ACT**

COUNT I

23. Defendant's conduct, as detailed in the preceding paragraphs, violated 15 U.S.C. §§ 1692d and 1692d(5).

a. A debt collector violates § 1692d of the FDCPA by engaging in conduct of

1 the natural consequence of which is to harass, oppress, or abuse any person in
2 connection with the collection of a debt.

3 b. Section 1692d(5) of the FDCPA prohibits debt collectors from causing a
4 telephone to ring or engaging any person in telephone conversation repeatedly
5 or continuously with the intent to annoy, abuse, or harass any person at the
6 called number.

7 c. Here, Defendant violated §§ 1692d, and 1692d(5) of the FDCPA when it
8 caused Plaintiff's cellular telephone to ring one (1) to two (2) times a day,
9 with the intent to annoy, abuse and harass Plaintiff, and when it continued to
10 call Plaintiff after he requested that Defendant stop.

12 **COUNT II**

13 24. Defendant's conduct, as detailed in the preceding paragraphs, violated 15 U.S.C. §
14 1692f.

15 a. A debt collector violates § 1692f of the FDCPA by using unfair or
16 unconscionable means to collect or attempt to collect any debt.

17 a. Here, Defendant violated § 1692f of the FDCPA by failing to provide Plaintiff
18 with validation of the debt, arguing with him about the debt, and continuing to
19 call him on a repetitive and continuous basis after being told to stop and only
20 communicate with him in writing.

21 WHEREFORE, Plaintiff, ALLEN KNUCKLES, respectfully prays for a judgment as
22 follows:

23 a. All actual damages suffered pursuant to 15 U.S.C. §1692k(a)(1);
24 b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant
25 to 15 U.S.C. §1692k(a)(2)(A);

- c. All reasonable attorneys' fees, witness fees, court costs and other litigation costs incurred by Plaintiff pursuant to 15 U.S.C. § 1693k(a)(3); and
- d. Any other relief deemed appropriate by this Honorable Court.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, ALLEN KNUCKLES, demands a jury trial in this case.

RESPECTFULLY SUBMITTED,

KIMMEL & SILVERMAN, P.C.

Date: June 23, 2014

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